



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: CFS Air Cargo, Inc.

File: B-238698.4

Date: March 21, 1990

Donald A. Tobin, Esq., Dempsey, Bastianelli, Brown & Touhey, for the protester.
Craig Hodge, Esq., Department of the Army, for the agency.
Linda S. Lebowitz, Esq., and Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester, the fifth low offeror, is not an interested party entitled to protest the award of a contract to the lowest priced technically acceptable offeror because the protester would not be in line for award even if its protest were sustained.

DECISION

CFS Air Cargo, Inc., the fifth low offeror, protests the award of a contract to George G. Sharpe, Inc. under request for proposals (RFP) No. DAAC21-90-R-0001, issued by the Department of the Army for the operation of the consolidation and containerization point at Sharpe Army Depot, California. CFS alleges that Sharpe submitted a materially unbalanced offer and requests that we direct the agency to award the contract to the firm.

We dismiss the protest.

The solicitation was issued on November 8, 1989. The closing date for receipt of initial proposals, as amended, was January 4, 1990, and the closing date for receipt of best and final offers (BAFOs) was February 8, 1990. Section M.3 of the solicitation provided that award would be made to the lowest priced technically acceptable offeror.

The record indicates that five offerors submitted timely BAFOs. CFS submitted the fifth lowest offer. On February 22, the agency awarded the contract to Sharpe, the

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lowest priced technically acceptable offeror. This protest followed.

To be considered by our Office, a protest must be filed by an "interested party" defined in our Bid Protest Regulations as an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract. 4 C.F.R. §§ 21.0(a), 21.1(a) (1989). Where, as here, there are intermediate parties that have a greater interest than CFS, we consider the protester too remote to establish its interest within the meaning of our Regulations. Ahtna, Inc., B-235761.3; B-235761.4, Dec. 1, 1989, 89-2 CPD ¶ 507; Caltech Service Corp., B-234424, May 1, 1989, 89-1 CPD ¶ 414.

CFS limits its protest to the acceptability of Sharpe, does not challenge the acceptability of any of the other lower priced offerors, and does not request resolicitation. Even if we determined that Sharpe submitted a materially unbalanced offer, thereby sustaining its protest, CFS would be the fourth low offeror, and would not be deemed interested because it would still not be in line for award. Id. Accordingly, CFS is not an interested party entitled to protest.

The protest is dismissed.



for
Ronald Berger
Associate General Counsel